



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of

PLATE et al.

Atty. Ref.: 3638-271

Serial No. 09/335,377
(Reissue of USPN 5,639,119)

Art Unit: 3616

Filed: June 17, 1999

Examiner: E. Culbreth

For: FORKLIFT STABILIZING APPARATUS

* * * * *

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

REISSUE DECLARATION

As below named inventors, we hereby declare as follows:

Our residence, post office address and citizenship are as stated below next to our names.

We believe we are the original, first and joint inventors of the invention entitled FORKLIFT STABILIZING APPARATUS described and claimed in U.S. Patent No. 5,639,119 ("the '119 patent"), granted June 17, 1997, and for which invention a reissue patent is hereby solicited, the specification of which was filed on June 17, 1999 as Reissue Application Serial No. 09/335,377, and was amended on February 8, 2001, September 24, 2001 and September 13, 2003.

We have reviewed and understand the contents of the above-identified reissue specification, including the claims as amended by any amendment referred to above.

We acknowledge the duty to disclose all information which is material to the examination of this reissue application in accordance with 37 C.F.R. §1.56.

We believe the '119 patent to be wholly or partly inoperative by reason of claiming less than we had the right to claim in the parent. In particular, claims 1, 6, 7 and 9 contain recitations concerning a stabilizer apparatus that are too limiting of the invention and unnecessary in view of the prior art. Claims 22-33 of the above-identified reissue application have limitations similar to those of claim 18, but define the invention with greater breadth. For example, claim 1 defined a vehicle including, *inter alia*, a stabilizer apparatus including:

- a pressure source,
- first and second fluid-actuated stabilizer assemblies connected respectively to said front and rear axles, one of said first and second stabilizer assemblies normally being locked against extension and contraction in the absence of pressurization thereof by said pressure source, and the other of said first and second stabilizer assemblies normally being free to extend and contract in the absence of pressurization thereof by said pressure source, and
- hydraulic circuit means connected between said pressure source and said first and second fluid activated stabilizer assemblies and including
 - flow control means operable between
 - a first mode wherein said pressure source is disconnected from said first and second stabilizer assemblies, whereby said one of said stabilizer assemblies is locked against extension and retraction, thereby locking said axle connected thereto against shifting movement relative to said frame, and whereby said other of said stabilizer assemblies is free to extend and retract, thereby permitting shifting movement relative to said frame of said axle connected thereto, and
 - a second mode wherein said pressure source is selectively connectable to said first and second stabilizer assemblies for selective

pressurization thereof by said pressure source so as to selectively extend and retract said first and second stabilizer assemblies.

This subject matter was not necessary in view of the prior art. We rather believe we were entitled to obtain broader protection for a vehicle including "a frame; an axle connected to said frame for movement relative thereto; a boom mounted on said frame; a system for locking said axle relative to said frame in response to said boom being elevated above a first predetermined angle and said frame being tilted by more than a second predetermined angle; and a sensor for sensing when said frame is tilted by more than said second predetermined angle" as defined in current claim 22.

Additionally, we believe we were entitled to obtain protection for a vehicle embodying a more broadly defined stabilizer apparatus as set forth in current claim 26, defining a stabilizer apparatus including a hydraulic circuit for locking said axle with respect to said frame, along with the other features defined therein.

Every error in the '119 patent which was corrected in the present reissue application, and is not covered by a prior Oath/Declaration submitted in this application, arose without any deceptive intention on the part of the Applicants.

Please address all correspondence concerning this application to:

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Arlington, Virginia 22201-4714.

We hereby declare that all statements made herein of our own knowledge are true and that all statements made on information and belief are believed to be true; and further

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that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. §1001, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

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